

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 12, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 07KD-021

Kauai

Grant of Term, Non-Exclusive Easement to George Tsukamoto for Access and Utility Purposes, Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key:(4) 4-6-010:004 & 005 (por.).

APPLICANT:

George Tsukamoto, Individual, Tenant in Severalty, whose mailing address is 5470B Kawaihau Road, Kapaa, Hawaii, 96746.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kawaihau situated at Kapaa Homesteads, 4th Series, Kawaihau, Kauai, identified by Tax Map Key:(4) 4-6-010:004 & 005 (por.), as shown on the attached map labeled Exhibit 'A', and hereafter referred to as the Subject Property.

AREA:

300 sq. ft. (20'x15').

ZONING:

State Land Use District: Urban
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain
and repair a right-of-way over, under and across State-owned
land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff
appraisal establishing fair market rent, subject to review
and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's
Environmental Impact Statement Exemption List", approved by
the Environmental Council and dated April 28, 1986, the
subject request is exempt from the preparation of an
environmental assessment pursuant to Exemption Class No. 1,
that states "Operations, repairs or maintenance of existing
structures, facilities, equipment or topographical features,
involving negligible or no expansion or change of use beyond
that previously existing."

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not
required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment.
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Applicant is the owner of TMK: (4) 4-6-010:035 & 036. The Subject Property is a portion of two larger parcels that are located between Applicant's two parcels. The two larger parcels that include the Subject Property are used for drainage purposes by the County of Kauai. Applicant's southern parcel (036) is located along Kawaihau Road, but the Applicant's home is located on his northern parcel (035). Until now, Applicant has simply driven across the Subject Property to access his northern parcel.

Currently, Applicant is in the process of refinancing a mortgage of parcel 035. During this process, it was discovered that Applicant does not have an easement through the Subject Property. Applicant is requesting the easement in order to establish access to parcel 035 and complete the refinancing process.

Since Applicant already uses the Subject Property in its current condition for access purposes, the proposed easement should not result in any expansion or change of use beyond that previously existing. Furthermore, Applicant does not intend to conduct any construction or other improvement activity within the proposed easement area. If the Applicant, after acquiring the easement, decides to engage in any such activity within the easement area, then approval for the activity from the Department shall be required. The County of Kauai has commented that Applicant's use of the Subject Property in its current condition is acceptable, and no further improvements are required.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Comments were solicited from:

State Agencies:

DOH	No comments
SHPD	No objections
OHA	No comments

County Agencies

County Planning	No response by suspense date
Public Works	Requesting comments from East Kauai Water Users Cooperative and comments from CoK - Building Division Flood Plain Section
CoK-Building Division	No response by suspense date
Dept. of Water	No comments

Others

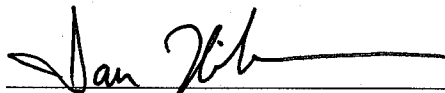
EKWUC	No response by suspense date
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RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4) 4-6-010:036, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to George Tsukamoto covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;

- B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 4-6-010:035, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,


for Marvin Mikasa
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

TRUE NORTH
Scale: 1 in. = 30 ft.

CASTRO

T.M.K. 4-6-10: 37
Owner: Josephine M. Koga

T.M.K. 4-6-10: 35
Owner: Brian Lansing

T.M.K. 4-6-10: 36
7500 Sq. Ft.
Owners: George and Sandra Tsukamoto

T.M.K. 4-6-10: 49
Owners: Leonard F. and Ethelyn K. Rosa

T.M.K. 4-6-10: 4
Owner: State of Hawaii

T.M.K. 4-6-10: 5
Owner: State of Hawaii

T.M.K. 4-6-10: 43
Owner: GTE Hawaiian Telephone Company

T.M.K. 4-6-10: 36
7842 Sq. Ft.
Owners: George and Sandra Tsukamoto

T.M.K. 4-6-10: 31
Owner: Josephine M. Koga

KAWAIIHAW ROAD TO KAPAA

DESIGNATION OF EASEMENT "B-2"
BEING PORTION OF STATE DITCH
AND PIPE RIGHT OF WAY
AT KAPAA HOMESTEADS, KAWAIIHAW, KAUAI, HAWAII
Tax Map Key (4th. Division): 4-6-10: 35, 36.
and portions of 4 and 5
Prepared for: George Tsukamoto
Date: September 29, 2008



THIS WORK WAS PREPARED BY ME
OR UNDER MY SUPERVISION

Signature

ESAKI SURVEYING & MAPPING, INC.
EXPIRES: APRIL 30, 2010

Notes:
Azimuths and Coordinates are referred to Government
Survey Triangulation Station "NONOU"
Owners of adjoining lands as shown on map are from
available records filed at the Tax Map Branch

Job Number: 96-29 BF MA
Drawing File: 96-29(E B-2).dwg

ESAKI SURVEYING & MAPPING, INC.
Civil Engineers - Land Surveyors - Planners

EXHIBIT "A"

1610 Halekuna St.
Lihue, Hawaii 96766